

Subject: Comments for Proposed Critical Habitat for Southern Resident Killer Whales

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Date: Mon, 14 Aug 2006 13:40:11 -0700

To: orcahabitat.nwr@noaa.gov

To whom it may concern:

Attached is Orca Relief Citizens' Alliance comments to the proposed ESA critical habitat for southern resident killer whales.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Birgit Kriete.

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August 14, 2006

Orca Relief Citizens' Alliance of Friday Harbor, WA submits the following comments on the proposed Critical Habitat Areas for the Southern Resident Killer Whale Population (SRKW). Primary in the habitat designation is the protection of all areas occupied by the species as well as using the precautionary principle to establish the boundaries of these areas:

- The outer coast of Washington and Oregon should be included in the areas listed as critical habitat. A map provided by Balcomb during the April 2006 SRKW Symposium shows yearly passage of and feeding by the southern resident pods along the outer coast during the winter months. While sightings are more difficult to obtain due to lower human population density and more hazardous marine conditions, observations range back to 1986 and an increasing request for information has yielded sufficient information to include the outer coast. According to ESA section 3(5)(A)(ii) 'specific areas outside the geographical area occupied if determined to be essential for the conservation of the species' need to be included in the critical habitat designation'. NOAA must act based on the precautionary principle and protect all areas the whales inhabit. This is included in the definition of 'critical habitat': (1) specific areas within the geographical area occupied by the species at the time of listing, if they contain physical or biological features essential to conservation, and those features may require special management considerations or protection.
- Areas less than 20' must be included in the critical habitat area. These are locations of primary importance for prey growth and development (see salmon restoration processes). It would be contra indicatory to protect the whales and their 'adult food sources', but exclude areas in which the orca's prey resides for reproduction, development and growth. Again, this is specified in the definition for critical habitat: (2) prey species of sufficient quantity, quality and availability to support individual growth.
- Part of the designation includes passage conditions to allow for migration, resting and foraging. In order to provide free passage for the whales at the most prominent locations during the spring, summer, and fall months, several areas must be protected in a more detailed way. Kriete 1995, 2002, and Bain 2006 have demonstrated that boats have grave negative effects on the whales' passage conditions, both physically and physiologically. Orca Relief proposes a 1mile protective/buffer zone off the shoreline of San Juan Island, Lopez, Orcas, Henry and Stewart Island to permit the whales free and safe passage. This buffer area will assure that accidents such as the one in July of 2005 in Andrew's Bay will not happen again. It will also provide space for the whales to hunt, travel, rest and socialize as defined in the critical habitat definition.

- Education has not been successful in the past. With the increased demand of whale watching and increases in both commercial and private whale watching boats accompanying the whales on a daily basis, a high degree of non-conforming to the voluntary whale watch regulations has been documented by Bain 2006. Laws must be established and official patrol vessels must be present on the water to protect the whales' immediate surroundings.
- Noise and toxic regulations must apply to the 18 military sites, as these areas are part of the southern resident killer whales' Puget Sound habitat.

Please do not hesitate to contact me if you have any questions.
I am looking forward to working with you to protect and restore the southern resident killer whales' habitat and population for future generations to come.

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